

1 ENGROSSED HOUSE
2 BILL NO. 1045

By: Biggs of the House

3 and

4 Sykes of the Senate
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6

7 An Act relating to criminal procedure; amending 22
8 O.S. 2011, Section 1080, which relates to post-
9 conviction procedures; modifying procedures for
10 filing petitions for post-conviction relief; defining
11 phrase; providing time limitations for filing
12 petitions; prohibiting the filing of petitions for
13 post-conviction relief under certain circumstances;
14 providing for the dismissal of petitions; authorizing
15 motions to reopen previous post-conviction petitions
16 under certain circumstances; stating requirements for
17 filing motion; making procedural requirements for
18 filing petitions apply retroactively; and providing
19 an effective date.

20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. AMENDATORY 22 O.S. 2011, Section 1080, is
22 amended to read as follows:

23 Section 1080. A. Any person who has been convicted of, or
24 sentenced for, a crime and who claims:

~~(a) that~~ 1. That the conviction or the sentence was in
violation of the Constitution of the United States or the
Constitution or laws of this state;

1 ~~(b) that~~ 2. That the court was without jurisdiction to impose
2 sentence;

3 ~~(c) that~~ 3. That the sentence exceeds the maximum authorized by
4 law;

5 ~~(d) that~~ 4. That there exists evidence of material facts, not
6 previously presented and heard, that requires vacation of the
7 conviction or sentence in the interest of justice;

8 ~~(e) that his~~ 5. That the sentence has expired, ~~his~~ the
9 suspended sentence, probation, parole, or conditional release has
10 been unlawfully revoked, or ~~he~~ the person is otherwise unlawfully
11 held in custody or other restraint; or

12 ~~(f) that~~ 6. That the conviction or sentence is otherwise
13 subject to collateral attack upon any ground of alleged error
14 heretofore available under any common law, statutory or other writ,
15 motion, petition, proceeding or remedy~~+~~,
16 may institute a proceeding under this act in the court in which the
17 judgment and sentence on conviction was imposed to secure the
18 appropriate relief. Excluding a timely appeal, this act encompasses
19 and replaces all common law and statutory methods of challenging a
20 conviction or sentence.

21 B. Unless extraordinary cause is shown, in a case in which a
22 sentence of death has not been imposed, a petition under this
23 subsection may not be filed more than two (2) years after the
24 sentence was imposed, or in cases in which a direct appeal was

1 properly filed, two (2) years after the mandate is issued in a
2 direct appeal of the conviction, whichever is later. As used in the
3 section, extraordinary cause shall mean:

4 1. Deoxyribonucleic acid (DNA) test results which conclusively
5 show the defendant is factually innocent;

6 2. The recognition of a new constitutional right that has been
7 made applicable retroactively to cases; or

8 3. Newly discovered evidence which could not have been
9 discovered with due diligence within two (2) years of the imposition
10 of sentence or the conclusion of the direct appeal.

11 C. In claims based on paragraph 2 or 3 of subsection B of this
12 section, a petition shall not be filed more than two (2) years
13 after the date on which the constitutional right was recognized by
14 the Supreme Court of the United States or the Oklahoma Court of
15 Criminal Appeals, nor more than two (2) years after the date on
16 which the evidence could have been discovered through due diligence.

17 D. In any case in which a sentence was imposed or a direct
18 appeal was filed before November 1, 2015, a petition under
19 subsection B of this section may not be filed more than two (2)
20 years after November 1, 2015, other than those in which
21 extraordinary cause is shown. In such cases where extraordinary
22 cause is shown, the petition must be filed within the time frames
23 set forth in subsection C of this section. Nothing herein shall
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1 prevent the denial of any petitions based on the doctrine of laches
2 on petitions which do not show extraordinary cause.

3 E. This statute contemplates the filing of only one petition
4 for post-conviction relief. In no event may more than one petition
5 for post-conviction relief be filed attacking a single judgment or
6 multiple judgments from a single trial. If a prior petition for
7 post-conviction relief was filed and then resolved on the merits or
8 on a procedural bar by a court of competent jurisdiction, any second
9 or subsequent petition for post-conviction relief shall be summarily
10 dismissed by the court.

11 F. A petitioner may at any time file a motion to reopen the
12 first petition for post-conviction relief based upon extraordinary
13 cause as defined in subsection B of this section. The motion shall
14 set out the factual basis underlying its claims and must be
15 supported by affidavit. The factual information set out in the
16 affidavit shall be limited to information which, if offered at an
17 evidentiary hearing, would be admissible through the testimony of
18 the affiant under the rules of evidence. The motion to reopen the
19 first petition for post-conviction relief shall be summarily
20 dismissed by the court unless the factual allegations, if true, meet
21 the definition of extraordinary cause as defined in subsection B of
22 this section.

23 G. The provisions of this section are procedural and shall
24 apply retroactively to any defendant sentenced in this state.

1 SECTION 2. This act shall become effective November 1, 2015.

2 Passed the House of Representatives the 23rd day of February,
3 2015.

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Presiding Officer of the House
of Representatives

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7 Passed the Senate the ___ day of _____, 2015.

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Presiding Officer of the Senate

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